

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

PLCG

10,432

FILE: B-194886

DATE: June 12, 1979

MATTER OF: Therm-Air Mfg. Co., Inc.

[Protest Against Alleged Improprieties in RFQ]

DIGEST:

Protest against alleged improprieties in RFQ sent by certified mail less than 5 days prior to deadline for receipt in GAO and actually received after closing date for receipt of quotations is untimely and not for consideration.

Therm-Air Mfg. Co., Inc. (Therm-Air), protests the award of a contract by the Department of the Navy, Naval Ships Parts Control Center, Mechanicsburg, Pennsylvania, under request for quotations (RFQ) No. N00104-79-T-BW60. Therm-Air contends that the RFQ is defective, ambiguous and conflicts with ASPR regulations that pertain to "Procurement of Supplies and Services."

PLG 61772

PLG 01773

The procurement is for air conditioners. The RFQ, issued on April 30, 1979, set the closing date for receipt of quotations for May 14, 1979. Therm-Air's protest to our Office was sent by certified mail on May 10, 1979, and received (filed) on May 16.

Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. part 20 (1978), provides, in pertinent part, as follows:

"Protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. * * *"

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Since Therm-Air's protest was not filed with our Office prior to the closing date for receipt of quotations (May 14), Therm-Air's protest is untimely.

However, § 20.2(b)(3) of our Procedures provides for consideration of protests which are untimely filed if they are sent by registered or certified mail. Section 20.2(b)(3) states, in pertinent part, as follows:

"* * * any protest received in the General Accounting Office after the time limits prescribed in this section shall not be considered unless it was sent by registered or certified mail not later than the fifth day * * * prior to the final date for filing a protest as specified herein. The only acceptable evidence to establish the date for mailing shall be the U.S. Postal Service postmark on the wrapper or the original receipt * * *."

Therm-Air's protest was sent by "certified mail" less than 5 days prior to the deadline for receipt in our Office and was actually received here 2 days after that deadline. Since the protest was not sent within the time limit provided for mailing protests by certified mail, our Office will not consider the protest under the "certified mail" exception.

Therefore, the protest is dismissed.



Milton J. Socolar
General Counsel